

in appendix C to this part, "Licensee Safeguards Contingency Plans."

(2) The licensee shall establish and document liaison with local law enforcement authorities. The licensee shall retain documentation of the current liaison as a record until the Commission terminates each license for which the liaison was developed and, if any portion of the liaison documentation is superseded, retain the superseded material for three years after each change.

(3) The total number of guards, and armed, trained personnel immediately available at the facility to fulfill these response requirements shall nominally be ten (10), unless specifically required otherwise on a case by case basis by the Commission; however, this number may not be reduced to less than five (5) guards.

(4) Upon detection of abnormal presence or activity of persons or vehicles within an isolation zone, a protected area, material access area, or a vital area; or upon evidence or indication of intrusion into a protected area, a material access area, or a vital area, the licensee security organization shall:

(i) Determine whether or not a threat exists,

(ii) Assess the extent of the threat, if any,

(iii) Take immediate concurrent measures to neutralize the threat by:

(A) Requiring responding guards or other armed response personnel to interpose themselves between vital areas and material access areas and any adversary attempting entry for the purpose of radiological sabotage or theft of special nuclear material and to intercept any person exiting with special nuclear material, and,

(B) Informing local law enforcement agencies of the threat and requesting assistance.

(5) The licensee shall instruct every guard and all armed response personnel to prevent or impede attempted acts of theft or radiological sabotage by using force sufficient to counter the force directed at him including the use of deadly force when the guard or other armed response person has a reasonable belief it is necessary in self-defense or in the defense of others.

(6) To facilitate initial response to detection of penetration of the protected area and assessment of the existence of a threat, a capability of observing the isolation zones and the physical barrier at the perimeter of the protected area shall be provided, preferably by means of closed circuit television or by other suitable means which limit exposure of responding personnel to possible attack.

(Sec. 161i, Pub. L. 83-703, 68 Stat. 948, Pub. L. 93-377, 88 Stat. 475; secs. 201, 204(b)(1), Pub. L. 93-438, 88 Stat. 1242-1243, 1245, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 2201, 5841))

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§ 73.56 Personnel access authorization requirements for nuclear power plants.

(a) *General.* (1) Each licensee who is authorized on April 25, 1991, to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter shall comply with the requirements of this section. By April 27, 1992, the required access authorization program must be incorporated into the site Physical Security Plan as provided for by 10 CFR 50.54(p)(2) and implemented. By April 27, 1992, each licensee shall certify to the NRC that it has implemented an access authorization program that meets the requirements of this part.

(2) Each applicant for a license to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter, whose application was submitted prior to April 25, 1991, shall either by April 27, 1992, or the date of receipt of the operating license, whichever is later, incorporate the required access authorization program into the site Physical Security Plan and implement it.

(3) Each applicant for a license to operate a nuclear power reactor pursuant to §§ 50.21(b) or 50.22 of this chapter and each applicant for a combined construction permit and operating license pursuant to part 52 of this chapter,

whose application is submitted after April 25, 1991, shall include the required access authorization program as part of its Physical Security Plan. The applicant, upon receipt of an operating license or upon receipt of operating authorization, shall implement the required access authorization program as part of its site Physical Security Plan.

(4) The licensee may accept an access authorization program used by its contractors or vendors for their employees provided it meets the requirements of this section. The licensee may accept part of an access authorization program used by its contractors, vendors, or other affected organizations and substitute, supplement, or duplicate any portion of the program as necessary to meet the requirements of this section. In any case, the licensee is responsible for granting, denying, or revoking unescorted access authorization to any contractor, vendor, or other affected organization employee.

(b) *General performance objective and requirements.* (1) The licensee shall establish and maintain an access authorization program granting individuals unescorted access to protected and vital areas with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable, and do not constitute an unreasonable risk to the health and safety of the public including a potential to commit radiological sabotage.

(2) Except as provided for in paragraphs (c) and (d) of this section, the unescorted access authorization program must include the following:

(i) A background investigation designed to identify past actions which are indicative of an individual's future reliability within a protected or vital area of a nuclear power reactor. As a minimum, the background investigation must verify an individual's true identity, and develop information concerning an individual's employment history, education history, credit history, criminal history, military service, and verify an individual's character and reputation.

(ii) A psychological assessment designed to evaluate the possible impact of any noted psychological characteris-

tics which may have a bearing on trustworthiness and reliability.

(iii) Behavioral observation, conducted by supervisors and management personnel, designed to detect individual behavioral changes which, if left unattended, could lead to acts detrimental to the public health and safety.

(3) The licensee shall base its decision to grant, deny, revoke, or continue an unescorted access authorization on review and evaluation of all pertinent information developed.

(4) Failure by an individual to report any previous suspension, revocation, or denial of unescorted access to nuclear power reactors is considered sufficient cause for denial of unescorted access authorization.

(c) *Existing, reinstated, transferred, and temporary access authorization.* (1) Individuals who have had an uninterrupted unescorted access authorization for at least 180 days on April 25, 1991 need not be further evaluated. Such individuals shall be subject to the behavioral observation requirements of this section.

(2) The access authorization program may specify conditions for reinstating an interrupted access authorization, for transferring an access authorization from another licensee, and for permitting temporary unescorted access authorization.

(3) The licensee shall grant unescorted access authorization to all individuals who have been certified by the Nuclear Regulatory Commission as suitable for such access.

(d) *Requirements during cold shutdown.*

(1) The licensee may grant unescorted access during cold shutdown to an individual who does not possess an access authorization granted in accordance with paragraph (b) of this section provided the licensee develops and incorporates into its Physical Security Plan measures to be taken to ensure that the functional capability of equipment in areas for which the access authorization requirement has been relaxed has not been impaired by relaxation of that requirement.

(2) Prior to incorporating such measures into its Physical Security Plan the licensee shall submit those plan changes to the NRC for review and approval pursuant to § 50.90.

(3) Any provisions in licensees' security plans that allow for relaxation of access authorization requirements during cold shutdown are superseded by this rule. Provisions in licensees' Physical Security Plans on April 25, 1991 that provide for devitalization (that is, a change from vital to protected area status) during cold shutdown are not affected.

(e) *Review procedures.* Each licensee implementing an unescorted access authorization program under the provisions of this section shall include a procedure for the review, at the request of the affected employee, of a denial or revocation by the licensee of unescorted access authorization of an employee of the licensee, contractor, or vendor, which adversely affects employment. The procedure must provide that the employee is informed of the grounds for denial or revocation and allow the employee an opportunity to provide additional relevant information, and provide an opportunity for an objective review of the information on which the denial or revocation was based. The procedure may be an impartial and independent internal management review. Unescorted access may not be granted to the individual during the review process.

(f) *Protection of information.* (1) Each licensee, contractor, or vendor who collects personal information on an employee for the purpose of complying with this section shall establish and maintain a system of files and procedures for the protection of the personal information.

(2) Licensees, contractors, and vendors shall make available such personal information to another licensee, contractor, or vendor provided that the request is accompanied by a signed release from the individual.

(3) Licensees, contractors, and vendors may not disclose the personal information collected and maintained to persons other than:

(i) Other licensees, contractors, or vendors, or their authorized representatives, legitimately seeking the information as required by this section for unescorted access decisions and who have obtained a signed release from the individual.

(ii) NRC representatives;

(iii) Appropriate law enforcement officials under court order;

(iv) The subject individual or his or her representative;

(v) Those licensee representatives who have a need to have access to the information in performing assigned duties, including audits of licensee's, contractor's, and vendor's programs;

(vi) Persons deciding matters on review or appeal; or

(vii) Other persons pursuant to court order. This section does not authorize the licensee, contractor, or vendor to withhold evidence of criminal conduct from law enforcement officials.

(g) *Audits.* (1) Each licensee shall audit its access authorization program within 12 months of the effective date of implementation of this program and at least every 24 months thereafter to ensure that the requirements of this section are satisfied.

(2) Each licensee who accepts the access authorization program of a contractor or vendor as provided for by paragraph (a)(4) of this section shall have access to records and shall audit contractor or vendor programs every 12 months to ensure that the requirements of this section are satisfied. Licensees may accept audits of contractors and vendors conducted by other licensees. Each sharing utility shall maintain a copy of the audit report, to include findings, recommendations and corrective actions. Each licensee retains responsibility for the effectiveness of any contractor and vendor program it accepts and the implementation of appropriate corrective action.

(h) *Records.* (1) Each licensee who issues an individual unescorted access authorization shall retain the records on which the authorization is based for the duration of the unescorted access authorization and for a five-year period following its termination. Each licensee who denies an individual unescorted access shall retain the records on which the denial is based for 5 years.

(2) Each licensee shall retain records of results of audits, resolution of the

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audit findings and corrective actions for three years.

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§ 73.57 Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees.

(a) *General.* (1) Each licensee who is authorized to operate a nuclear power reactor under part 50 shall comply with the requirements of this section.

(2) Each applicant for a license to operate a nuclear power reactor under part 50 of this chapter shall submit fingerprints for those individuals who have or will have access to Safeguards Information.

(3) Prior to receiving its operating license, each applicant for a license to operate a nuclear power reactor pursuant to part 50 of this chapter may submit fingerprints for those individuals who will require unescorted access to the nuclear power facility.

(b) *General performance objective and requirements.* (1) Except those listed in paragraph (b)(2) of this section, each licensee subject to the provisions of this section shall fingerprint each individual who is permitted unescorted access to the nuclear power facility or access to Safeguards Information. Individuals who have unescorted access authorization on April 1, 1987 will retain such access pending licensee receipt of the results of the criminal history check on the individual's fingerprints, so long as the cards were submitted by September 28, 1987. The licensee will then review and use the information received from the Federal Bureau of Investigation (FBI), and based on the provisions contained in this rule, determine either to continue to grant or to deny further unescorted access to the facility or Safeguards Information for that individual. Individuals who do not have unescorted access or access to Safeguards Information after April 1, 1987 shall be fingerprinted by the licensee and the results of the criminal history records check shall be used prior to making a determination for

granting unescorted access to the nuclear power facility or access to Safeguards Information.

(2) Licensees need not fingerprint in accordance with the requirements of this section for the following categories:

(i) For unescorted access to the nuclear power facility or for access to Safeguards Information (but must adhere to provisions contained in § 73.21): NRC employees and NRC contractors on official agency business; individuals responding to a site emergency in accordance with the provisions of § 73.55(a); a representative of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement at designated facilities who has been certified by the NRC; law enforcement personnel acting in an official capacity; State or local government employees who have had equivalent reviews of FBI criminal history data; and individuals employed at a facility who possess "Q" or "L" clearances or possess another active government granted security clearance, i.e., Top Secret, Secret, or Confidential;

(ii) For access to Safeguards Information only but must adhere to provisions contained in § 73.21: Employees of other agencies of the United States Government; a member of a duly authorized committee of the Congress; the Governor of a State or his/her designated representative; individuals to whom disclosure is ordered pursuant to § 2.744(e);

(iii) Any licensee currently processing criminal history requests through the FBI pursuant to Executive Order 10450 need not also submit such requests to the NRC under this section; and

(iv) Upon further notice to licensees and without further rulemaking, the Commission may waive certain requirements of this section on a temporary basis.

(3) The licensee shall notify each affected individual that the fingerprints will be used to secure a review of his/her criminal history record, and inform the individual of proper procedures for revising the record or including explanation in the record.